

REMARKS

The Examiner, Ms. Verbitsky, is thanked for the courteous extended applicants attorney during the telephone discussion on February 28, 2005 regarding the rejection of claims 15 - 17 under 35 USC 112, first paragraph, in which the Examiner indicated that such rejection is directed to the fact that the language as utilized in independent claim 15 is not utilized in the specification. In light of this clarification by the Examiner, by the present amendment, the specification at page 11 has been amended to utilize language as utilized in claim 15 which features are clearly illustrated in Fig. 1B of the drawings of this application as now described therein.

The allowance of claims 8 - 23 is acknowledged, and in light of the amendment to the specification, applicants submit that the rejection of claims 15 - 17 under 35 USC 112, first paragraph, should now be overcome and such claims should also be considered allowable at this time.

As to the rejection of claims 15 - 17 under 35 USC 112, first paragraph, this rejection is traversed insofar as it is applicable to the application, as amended and reconsideration and withdrawal of the rejection are requested.

In setting forth the rejection, the Examiner indicates that it appears that the limitation stating that the metal member "having at least one pointed part with a width which monotonically decreases in a first direction and limiting a gap in an area where no metal member is disposed, and where no pointed part exists in a second direction which is orthogonal to the first direction" has not been clearly described in the specification. With regard to utilization of language as found in the claims in the specification, reference is made to the decision of In re Wright, 9 USPQ 2d. 1649 (Fed. Cir. 1989) wherein the Court pointed out that the claimed subject matter need not be described in haecferba in the specification in order for that specification to satisfy the describe the description requirement. The fact that the exact words are not in the specification is not important. Rather, the question is whether the original

specification, which includes the original drawings, conveys to those skilled in the art the information that the applicant has invented the subject matter as claimed. In any event, by the present amendment, the specification has been amended to more clearly describe the illustrated structure of Fig. 1B of the drawings utilizing language as found in the claims. That is, Fig. 1B shows, as one example, the near-field light probe having a triangle-shaped metal pattern coated on a planar substrate. The metal pattern is described as, for example, an aluminum pattern 106 or metal member wherein a spacing g or gap is provided between apexes of the two opposing triangles in a non-coated area 107. As described, the metal pattern or metal member 106 is provided on the planar substrate, and the non-coated area 107, which is not a metal member is provided at the apexes of the triangles and their vicinity.

The specification has been amended to recite "That is as shown in Fig. 1B, the metal pattern or member 106 forms two opposing triangles with the pointed parts or apexes of the triangles being spaced from one another by the spacing or gap g in the non-coated area 107 where no metal member 106 is disposed. Further, as shown, the width of the triangles decrease monotonically or uniformly in the direction A. On the other hand, as shown, in the direction B which is orthogonal to the direction A, no pointed part exists." Applicants note that the term "monotonically" refers to a uniform changing of the width, as illustrated in Fig. 1B, and applicants submit that Fig. 1B clearly supports the description as now utilized in the specification, which in turn, provides clear support for the language of claim 15 questioned by the Examiner. Thus, applicants submit that the rejection of claims 15 - 17 under 35 USC 112, first paragraph should now be overcome. Thus, applicants submit that claims 15 - 17 should now be in condition for allowance together with allowed claims 18 - 23.

In view of the amendment of the specification, applicants submit that all claims present in this application should now be in condition for allowance and favorable action in this application is respectfully requested.

The Examiner, Ms. Verbitsky, is invited to contact the undersigned attorney upon taking up this application for action if any outstanding matters remain.

To the extent necessary, applicant's petition for an extension of time under 37 CFR 1.136. Please charge any shortage in the fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 01-2135 (501.41069X00) and please credit any excess fees to such deposit account.

Respectfully submitted,



Melvin Kraus
Registration No. 22,466
ANTONELLI, TERRY, STOUT & KRAUS, LLP

MK/jla
(703) 312-6600